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7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**  
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10 TRUSTEES OF THE OPERATING  
ENGINEERS PENSION TRUST, *et al.*,

11 Plaintiffs,

12 v.  
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14 DRAEGER CONSTRUCTION, LLC, *et*  
*al.*,

15 Defendants.  
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Case No. 2:10-CV-01300-KJD-LRL

**ORDER**

17 Third Party Plaintiff Design Builder, LTD.'s Third Party Complaint (#25) was filed  
18 November 11, 2010. Federal Rule of Civil Procedure 4(m) requires service of summons and  
19 complaint to be made upon a defendant 120 days after the filing of the complaint. The 120 day time  
20 period for effecting service of the summons and complaint upon Third Party Defendants expired no  
21 later than March 11, 2011. On January 4, 2012, the Court notified Third Party Plaintiff that proof of  
22 timely service of the summons and complaint was due no later than January 19, 2012. The Court  
23 warned Third Party Plaintiff that failure to respond would result in the Court dismissing its third  
24 party complaint.  
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1 Design Builders, LTD. has failed to file proof of service on Third Party Defendants, or to  
2 otherwise respond to the Court's order. Therefore, the Court dismisses the third party complaint  
3 without prejudice for failure to serve Defendants in compliance with Rule 4(m).

4 Furthermore, Plaintiffs and Defendant Design Builders, LTD. are ordered to file the Joint Pre-  
5 trial Order within thirty (30) days of the entry of this order.

6 **IT IS SO ORDERED.**

7 DATED this 9<sup>th</sup> day of April 2012.

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11 Kent J. Dawson  
12 United States District Judge  
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